

Amendment 3

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on behalf of the ID Group

Report**A9-0217/2022****Gwendoline Delbos-Corfield**

Existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded
(2018/0902R(NLE))

Motion for a resolution (Rule 181(3) of the Rules of Procedure) replacing non-legislative motion for a resolution A9-0217/2022

European Parliament resolution on the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded

The European Parliament,

- having regard to Articles 2 and 7 of the Treaty on European Union (TEU),
 - having regard to Article 5 TEU, in particular the principles of conferral, subsidiarity and proportionality, which limit the powers of the EU,
 - having regard to the Charter of Fundamental Rights of the European Union,
 - having regard to the Vienna Convention on the Law of Treaties,
 - having regard to Rule 54 of its Rules of Procedure,
- A. whereas the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, which are common to the Member States;
- B. whereas any clear risk of a serious breach by a Member State or by the EU institutions of the values referred to in Article 2 TEU does not solely concern the individual Member State or institution, but has an impact on the other Member States and the EU as a whole, on the mutual trust between the Member States and between them and the EU, and on the very nature of the EU and the fundamental rights of its Member States and their citizens;
- C. whereas Article 5(3) TEU states that ‘under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States’;
- D. whereas Article 7 TEU sets out the procedure for instituting infringement proceedings

against a Member State where there is a clear risk of breaching the common values in areas falling under the EU's competences;

- E. whereas as an international organisation, the EU remains bound by international law and the Court of Justice of the European Union (CJEU), a treaty-based court, and, by virtue of the Member States being signatories to the Vienna Convention on the Law of Treaties, remains bound by the rules of interpretation and other provisions of the convention;
- F. whereas there is no EU-wide legal definition of what the concept of the 'rule of law' entails; whereas any such political process would seek to bind Member States to a monolithic and centralised concept of EU law, putting the Union hierarchically above the Member States, while, on the other hand, seeking to replace the traditional content of the rule of law by constructing a subjective set of values and principles;
- G. whereas for several years, the European institutions have been using debates on respect for the rule of law and fundamental rights as a pretext to exert political pressure on certain Member States to modify policies that fall under the remit of their national competences;
- H. whereas despite the many politically biased visits, hearings, statements and resolutions of the last few years, the assessment of the situation in Hungary, critical as it may be, has not provided objective reasons to continue with this procedure;
- I. whereas the process is being applied unequally, as there are a number of Member States that have institutional procedures and state actions in place that contradict the traditional understanding of the rule of law, raising serious concerns about the concept, methodology and sources of the report adopted by its Committee on Civil Liberties, Justice and Home Affairs, as it seems to apply 'double standards' when dealing with Hungary in comparison to other Member States;
- J. whereas in 2020 and 2021, for example, restrictive measures to combat the COVID-19 pandemic in most Member States widely impacted a number of fundamental rights, such as the rights to freedom of movement and assembly, the right to private and family life, including personal data protection, and the rights to education, work and social security;
- K. whereas in most Member States, the COVID-19 pandemic was mainly managed through fast-track procedures often lacking proper democratic scrutiny, which were originally conceived as exceptions, but ended up becoming the norm, and were even extended to legislation with significant impacts on individual freedoms;
- L. whereas, moreover, no alerts concerning attacks compromising the physical safety and integrity of journalists in Hungary have been reported in the last five years on the Council of Europe Platform on the Safety of Journalists; whereas by contrast, in certain Western European Member States, in 2021 alone, five such alerts were published;
- M. whereas the Rule of Law Conditionality Regulation¹ is not intended to protect the rule

¹ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on

of law as such, but only to protect the EU budget, and whereas the Commission should strictly comply with the relevant procedural requirements when applying it, including, in particular, a genuine link between a possible infringement and an impact or serious risk of an impact on the sound financial management of the EU or its financial interests;

- N. whereas the Hungarian Government has claimed that no structural issues that would justify any well-founded rule of law-related concerns as regards the protection of the EU budget exist; whereas the fact that the procedure was announced only two days after the general elections and the landmark victory of the ruling parties in Hungary substantiates the political nature of the procedure;
1. Recalls, first and foremost, that Hungary, like every other Member State, has its own national identity and constitutional traditions that are in line with European values and must always be treated with respect, objectivity and consideration for the principle of equality; underlines that the rule of law is a fundamental value for all Member States; expresses concern that the abuse of the concept of the rule of law for political ends hampers mutual trust and sincere cooperation between Member States;
 2. Welcomes the fact that the rule of the law is a fundamental principle in all Member States; respects the fact that Member States may interpret the general concept of the rule of law differently as a result of their vastly differing legal traditions and jurisprudence; recalls that the concept of the rule of law cannot be construed in accordance with the Commission's subjective interpretation and application of law;
 3. Considers that cooperation between Member States is of particular relevance in advancing democracy, the rule of law and fundamental rights within the EU; urges the Commission to uphold its own rules in the areas of transparency, anti-corruption and justice;
 4. Reiterates that Parliament's concerns related to Hungary have been clarified by the Hungarian Government on numerous occasions; rejects the idea of pressure being exerted on Member States for ideological reasons and in relation to the handling of specific cases; underlines that political and ideological debates should not be disguised as legal debates;
 5. Notes that while all Member States are allegedly scrutinised in a similar way, there is an observable gap between the theory and the practical reality;
 6. Expresses its concern that the rule of law assessment is being implemented without a clear definition agreed upon between the Member States;
 7. Believes that the Union's interference with the Member States' constitutional traditions further erodes their independence and sovereignty, and imposes a single ideology on them; considers that a politically motivated sanction mechanism, which is employed against Member States which do not agree with such a course of action, could result in the arbitrary application of the values enshrined in Article 2 TEU and would pose a systemic threat to European cooperation; expresses regret that Hungary has suffered unfounded and politically motivated attacks for no other reason than the fact that it

a general regime of conditionality for the protection of the Union budget, OJ L 433I , 22.12.2020, p. 1.

strongly defends sovereignty and the independence of Member States and the initial idea of European cooperation;

8. Underlines that according to the Treaties, the Council is the competent institution to conduct Article 7 procedures and, in the spirit of mutual trust, Parliament will defer to its decision at the end of its examination; notes nevertheless that the Council's indecision in making meaningful progress in this process undermines European cooperation and requests that it not organise any more hearings and instead bring this procedure to a conclusion;
9. Commits, in these areas and within the limits of the powers conferred on it by the Treaties, to applying the same criteria as those used in its relevant previous resolutions to all Member States and to the EU institutions with the same stringency;
10. Urges the Commission to comply with EU law and not to use tools other than Article 7 TEU to protect the rule of law; recalls that, according to CJEU case-law, the Rule of Law Conditionality Regulation is aimed solely at protecting the EU budget;
11. Stresses that the Member States are and remain the masters of the Treaties;
12. Instructs its President to forward this resolution to the Council and the Commission, and the governments and parliaments of the Member States.

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